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UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Charles Wolff, Plaintiff, v. New Hampshire Department of Corrections, et al., Defendants.	CIVIL ACTION NO. 06-321-PB

OBJECTION TO MOTION TO AMEND COMPLAINT

NOW COME the Defendants, by and through their Counsel, the Office of the Attorney General, and objects to Plaintiff's Motion to Amend (Document 37, filed July 2, 2007), stating as follows:

1. Plaintiff filed the complaint in this case on August 28, 2006. Pursuant to 28 U.S.C. § 1915A the district court conducted a preliminary review of Plaintiff's complaint and issued a Report and Recommendation (Muirhead, J. 1/26/07) stating that Plaintiff had pled facts sufficient to state a claim in regards to (a) a First Amendment claim for denial of his right to practice his religion, and (b) a claim under RLUIPA. The Court dismissed any additional claims, including any claims alleging a violation of his Eighth Amendment right to medical care.

2. On June 25, 2007 Plaintiff filed a motion (Document No. 30) seeking to amend his complaint in order to dismiss his claims against Defendant William Wrenn. On June 25, 2007 Plaintiff filed a second motion seeking to amend his complaint (Document No. 31) in which Plaintiff made clear that he was not naming Donald Andrews as a Defendant.

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3. Plaintiff has now filed a *third* motion to amend his complaint, this time seeking to add an Eighth Amendment claim for failure to provide medical care, and seeking to name twelve additional defendants.

4. Defendants object to Plaintiff's attempt to introduce new claims and new defendants in this action. The Court has already conducted an initial screening of this complaint and has determined that Plaintiff has only stated a claim in regard to his religious claims. Plaintiff should not be allowed to circumvent that ruling by simply filing an amendment to his complaint and re-introducing those claims again.

5. Furthermore, under the Federal Rules of Civil Procedure, a party is permitted to amend his or her pleadings only once as a matter of course, and only then if it is before a responsive pleading has been filed. Fed. R. Civ. P. 15(a). After that time, amendments are only allowed by leave of court, when "justice so requires." Defendants submit that justice does not require allowing Plaintiff to amend his complaint in order to add in claims that have already been dismissed by the Court for failing to State a claim.

6. No separate memorandum of law has been filed with this motion.

WHEREFORE, the Defendants respectfully request that the Honorable Court:

A. Deny Plaintiff's Motion to Amend his Complaint;

B. Grant any additional relief as is just and proper.

Respectfully submitted,

NEW HAMPSHIRE DEPARTMENT OF
CORRECTIONS, ET AL.

By and through their attorneys,

KELLY A. AYOTTE

ATTORNEY GENERAL

\s\ Andrew B. Livernois_________
Andrew B. Livernois, Bar No.14350
Assistant Attorney General
Civil Bureau
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(603) 271-3650

Certification of Service

July 17, 2007

I hereby certify that a copy of the foregoing was mailed this day, postage prepaid, to Charles Wolff, *pro se*, P.O. Box 14, Concord, NH 03302.

/s/ Andrew B. Livernois
Andrew B. Livernois

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